



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-232691.3

November 10, 1988

The Honorable Edward M. Kennedy
United States Senate

Dear Senator Kennedy:

We have received your letter of October 3, 1988, concerning the request by Mr. William Cole of Bill Cole Enterprises, Randolph, Massachusetts, that we reconsider our dismissal of his protest concerning allegedly erroneous specifications in invitation for bids (IFB) No. 2FYG-CM-A-A4621 issued by the General Services Administration (GSA), for archival quality film sleeves.

Mr. Cole had also written directly to our Office to request reconsideration. By decision dated October 19, 1988, we affirmed our prior dismissal of the protest as untimely. A copy of that decision is enclosed for your convenience.

By way of background, Mr. Cole filed a protest with our Office after he had filed a protest with the contracting agency, GSA. As we explained in the enclosed decision, Mr. Cole's protest to us was untimely because it was not filed within 10 working days of the date the protester had actual or constructive knowledge of the initial adverse action GSA took with respect to the protest which he had filed with it, as required by our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1988).

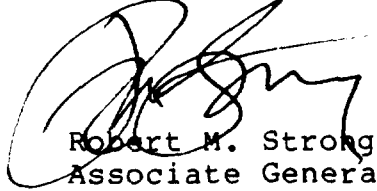
Mr. Cole does not dispute that his protest failed to comply with our timeliness requirements but rather he contends that since these requirements were not spelled out in GSA's solicitation he was unaware of them, and should, therefore, be excused from compliance. Protesters, however, are charged with constructive notice of our Bid Protest Regulations since they are published in the Federal Register, and a protester's unawareness is not a proper basis for waiving their requirements. Our Regulations are intended to provide for expeditious consideration of procurement actions without unduly disrupting the government's procurement process. To waive our timeliness requirements for the protester's sole benefit would only

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serve to compromise the integrity of those rules. See The Master Collectors, Inc.--Reconsideration, B-228938.4, Jan. 19, 1988, 88-1 CPD ¶ 47.

A member of my staff has recently spoken with Mr. Cole and has provided him with a copy of our Bid Protest Regulations so as to avoid any future problems.

Sincerely yours,

A handwritten signature in black ink, appearing to read "R. Strong", is written over the printed name.

Robert M. Strong
Associate General Counsel

Enclosure